

file, and available for inspection, such written statements of consent.
(Code 1968, § 31½-7; Ord. No. 77-1014, § 1, 5-24-77)

Sec. 7-88. Duty to report offer to sell stolen property; purchase of city property.

(a) It shall be the duty of the pawnbroker to report immediately to the police department any offer to sell to the pawnbroker, his agents or employees, property which such pawnbroker, his agents or employees have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. Such pawnbroker, his agents or employees, shall also report any property acquired by the pawnbroker which the pawnbroker, his agents or employees, subsequently determines or reasonably suspects to be stolen property and the pawnbroker, his agents or employees shall furnish such other information as might be helpful to the police in investigating the matter.

(b) It shall be unlawful for any pawnbroker, his agents or employees to purchase an item of property on which are written or affixed the words "Property of the City of Houston" or other words demonstrating ownership by the city except in the following circumstances:

- (1) Where the person offering such property for sale is an employee of the city authorized by the city treasurer to make such a sale and provides the pawnbroker, his agents or employees with a written authorization from the city treasurer for the sale of such property; or,
 - (2) Where the person offering such property for sale presents, at the time of such offer, a valid receipt from the city treasurer evidencing the purchase of such property by the person offering such property.
- (Code 1968, § 31½-8; Ord. No. 77-1014, § 1, 5-24-77)

Sec. 7-89. Responsibility for violations.

Each pawnbroker shall be responsible for any action done in the course of the pawnbroker's business by any agent or employee of such pawnbroker which is in violation of this article whether

or not such pawnbroker had knowledge of such action.

(Code 1968, § 31½-9; Ord. No. 77-1014, § 1, 5-24-77)

Secs. 7-90—7-100. Reserved.

ARTICLE V. COMMON MARKETS*

Sec. 7-101. Definitions.

The following words and phrases shall have the following meanings in this article unless otherwise clearly indicated in the text. Words not defined shall be interpreted in their usual sense.

- (1) *Common market* shall mean any tract of land, including all improvements thereon, on which five (5) or more spaces, booths and/or rooms are rented or let for a period not to exceed eight (8) consecutive days, for the purpose of selling used goods. However, if the lessor rents or lets five (5) or more spaces, booths, and/or rooms, for a period not to exceed eight (8) consecutive days, for purposes other than the sale of used goods, and subsequently permits the sale of used goods from five (5) or more spaces, booths and/or rooms that tract shall be deemed a common market.
- (2) *Used goods* shall mean any items, goods, products, wares, chattels, or articles of any kind or character which have previously been owned by someone other than the manufacturer or a dealer whose business it is to sell such when new to the consumer.

(Code 1968, § 12½-1; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-102. License required; display of licenses.

No person shall own or operate a common market unless he has a valid license issued by the tax assessor-collector. Any person who owns or operates a common market at more than one location must obtain a license for each separate location. In the event the person who operates a common

*Cross references—The Houston Festival, § 12-81 et seq.; rat-proofing for curb and farmer's markets, § 21-128 et seq.; itinerant vendors, Ch. 22.

market is not the owner thereof, both the owner and the operator shall be co-licensees. Each license required under this article shall be conspicuously posted upon the licensed premises.

(Code 1968, § 12½-2; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-103. Application for license.

(a) To obtain a license to own or operate a common market, the applicant shall submit an application therefor in writing to the tax assessor-collector on a form furnished by the city for that purpose. The applicant shall set forth:

- (1) The name and address of the common market.
- (2) The name and address of the persons who will operate the common market.
- (3) If the owner or operator is a corporation, all officers of the corporation; and if there are fewer than five (5) shareholders, the names of all shareholders.
- (4) If the owner or operator is a partnership, the names and addresses of all partners.
- (5) If the owner or operator is an association, the names and addresses of all officers of such association.
- (6) The street address where the common market is located.
- (7) The legal description of the property on which the common market is located.
- (8) Whether or not any person required to be listed on the application has had a license revoked under this article at any time.

(b) Such application shall be subscribed and sworn to by all owners and operators of the specified market before an officer authorized to administer oaths.

(Code 1968, § 12½-3; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-104. License issuance; notification upon rejection.

The tax assessor-collector shall issue a license upon submission of an application in accordance with this article and payment of the license fee, unless he finds the applicant cannot be granted a license under section 7-105 of this Code.

If the tax assessor-collector rejects the application, he shall give written notice by certified mail, return receipt requested, to the applicant stating the reasons for such rejection. If an application is rejected on a finding that the applicant cannot be granted a license under section 7-105 of this Code, no portion of the license fee shall be refunded.

(Code 1968, § 12½-4; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-105. Grounds for not issuing license.

No person may be granted a license to own or operate a common market at a particular location if:

- (1) Any statement made in the application was incomplete or false.
- (2) Any person required to be listed on the application has had a license revoked under this article.

(Code 1968, § 12½-5; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-106. Transfer of license.

Any license issued in accordance with this article is personal to the applicant and is neither transferable, nor alienable.

(Code 1968, § 12½-6; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-107. License expiration and renewal.

Each license issued in accordance with this article shall expire one year from the date of issuance. The license may be renewed by submitting an application in accordance with section 7-103 of this Code and payment of the license fee.

(Code 1968, § 12½-7; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-108. License fee.

The annual fee for each license to own and operate a common market shall be sixty dollars (\$60.00) per year.

(Code 1968, § 12½-8; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-109. Licensee to keep records.

(a) Each person who is licensed pursuant to the provisions of this article shall cause to be kept a record of each transaction in which a space, booth and/or room in a common market is rented or let, unless such space, booth, and/or room is rented or let for thirty (30) consecutive days or more and

such space, booth and/or room will be open for business not less than five (5) days per week. Such record shall include:

- (1) The name of each person renting or leasing the space, booth and/or room.
- (2) The dates of such space, booth and/or room may be used by the person renting or leasing the same.
- (3) The name of all persons who will be selling or assisting the lessee in selling goods in that space, booth and/or room.
- (4) The mailing address of each person renting or leasing a space, booth and/or room and of each person selling and/or assisting in the selling of goods in that space, booth and/or room.
- (5) The driver's license number of each person renting or leasing a space, booth and/or room, and of each person selling and/or assisting in the selling of goods from that space, booth and/or room; or if any such person does not have a valid driver's license and is sixteen (16) years of age or older, such person shall be required to present a personal identification certificate issued by the Texas Department of Public Safety and the number of such personal identification certificate shall be listed in the record required under this section.
- (6) The license plate number, make, model, and color of the vehicle used by each person selling or assisting in the selling of goods from a space, booth or room.

(b) The licensee shall maintain the records so described in a record book which has a carbon copy, the original being the city police department's copy and the carbon being for the licensee's records. The licensee's copies shall be available for inspection by any peace officer or authorized inspector of the tax assessor-collector's office during regular business hours. The licensee shall maintain his copies of such records for six (6) months after the dates the persons listed were permitted to use such space, booth or room and shall maintain the originals for the same period unless the police department has taken custody of the originals prior to the expiration of that time.

It will be the responsibility of the police department to pick up the original copies of the records.

(c) The licensee shall not permit any person to sell or assist in the selling of any goods from any space, booth or room for which a record is required to be kept by this section unless such person is listed in the licensee's records.

(Code 1968, § 12½-9; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-110. Examination of goods.

(a) All goods located on the property of the common market which are openly displayed or available for purchase in a space, booth or room for which a record must be kept under section 7-109 of this Code shall be accessible for examination by any police officer of the city at any time the common market is open to the public.

(b) Prior to renting or letting any space, booth and/or room for which a record must be kept under section 7-109 of this Code, the licensee shall give written notice to the person renting or letting such space of the provisions of subsection (a) above. (Code 1968, § 12½-10; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-111. Grounds for revocation of license.

A license issued under this article may be revoked in accordance with the following procedures if it is found that:

- (a) The licensee has violated any provisions of this article.
- (b) Any person required to be listed on the application for the license has, since the license was granted, violated any federal or state criminal statutes involving theft or fraud after such license was granted.
- (c) Any statements made in the application for the license were known to be false or should have been known to be false by any person required to sign the application.

(Code 1968, § 12½-11; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-112. Investigation of facts prior to revocation of license; notice to licensee of possible revocation.

Whenever the tax collector-assessor receives reliable information that grounds for revocation of

a license exists, he shall investigate the facts. If he finds that there are probable grounds for revocation of a license, he shall give written notice to the licensee by personal service or by certified mail, return receipt requested. Such notice shall set forth:

- (a) The specific grounds upon which the license in question may be revoked.
- (b) That there will be a hearing before the tax assessor-collector or his designated representative in which the city will seek the revocation of the license.
- (c) The date, time and place of such hearing.
- (d) That the licensee may appear in person and/or be represented by an attorney and may present testimony and may examine all witnesses.

In the event the address of the licensee is unknown or notice which has been mailed is returned undelivered, service upon any agent of the licensee at the common market shall be deemed service upon the licensee.

(Code 1968, § 12½-12; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-113. Hearing on license revocation.

(a) All hearings shall be held by the tax assessor-collector or his designated representative. Such officer shall be referred to as the hearing officer. However, the tax assessor-collector shall not designate any person or persons to perform the duties of hearing officer under this section who has participated in the investigation or has prior knowledge of the allegations or circumstances discovered in the course of said investigation except those set forth in the notice given pursuant to section 7-112.

(b) All hearings shall be conducted under rules consistent with the nature of the proceedings, and only evidence presented before the tax assessor-collector at such hearing may be considered in rendering the final order.

(Code 1968, § 12½-13; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-114. Failure of licensee to appear at hearing.

If the licensee fails to appear at the hearing at the date and time specified, the city shall introduce evidence to establish a prima facie case showing that grounds exist for revocation of the license.

(Code 1968, § 12½-14; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-115. Findings of hearing officer.

After completion of the presentation of evidence by all parties appearing, the hearing officer shall make written findings in an order as to whether or not there are grounds for revocation of the license, and if there are such grounds setting forth in such written findings the specific facts supporting such grounds. If the hearing officer finds that grounds do exist for revocation of the license, he shall revoke the license for such common market. A true and accurate copy of the hearing officer's order shall be personally delivered or sent by certified mail, return receipt requested, to the licensee.

(Code 1968, § 12½-15; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-116. License fee not to be refunded upon revocation of license.

In the event any such license is revoked by the hearing officer, the city shall not be liable to any person for any refund of any part of the license fee.

(Code 1968, § 12½-16; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-117. Applicability of other ordinances.

Persons who sell used goods from a space, booth or room in a common market shall not be required to comply with the requirements of articles II or III of this chapter, except that any person who engages in the business of selling used goods in one or more common markets on five (5) or more days, whether such days are consecutive or not, in any two (2) consecutive month period must comply with all applicable requirements of such articles.

(Code 1968, § 12½-17; Ord. No. 78-1884, § 1, 9-26-78)

Sec. 7-118. Penalty for failure to obtain license or violation of article.

Any person who owns or operates a common market but does not have a valid license therefor shall be guilty of a misdemeanor and, upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). Each day such owner or operator permits the sale of any goods from such unlicensed common market shall constitute a separate offense. Any other violation of the provisions of this article shall constitute a misdemeanor which shall be punishable as provided in section 1-6 of this Code.

(Code 1968, § 12 $\frac{1}{2}$ -18; Ord. No. 78-1884, § 1, 9-26-78; Ord. No. 92-1449, § 10, 11-4-92)

Charter reference—Penalty for ordinance violation, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.